

104TH CONGRESS
1ST SESSION

H. R. 911

To encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1995

Mr. PORTER (for himself, Mr. ACKERMAN, Mr. ALLARD, Mr. BAKER of California, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BEREUTER, Mr. BEVILL, Mr. BOEHLERT, Mr. BONILLA, Mr. BONO, Mr. BROWDER, Mr. BUNNING of Kentucky, Mr. CALLAHAN, Mr. CALVERT, Mr. CANADY of Florida, Mrs. CLAYTON, Mr. COBURN, Mr. CONDIT, Mr. COX of California, Mr. DAVIS, Ms. DELAURO, Mr. DOOLEY, Mr. DOYLE, Mr. EHLERS, Mr. EMERSON, Mr. ENGEL, Mr. ENGLISH of Pennsylvania, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. FAWELL, Mr. FIELDS of Texas, Mr. FILNER, Mr. FLANAGAN, Mr. FORBES, Mr. FOX of Pennsylvania, Mr. FRANK of Massachusetts, Mr. FROST, Ms. FURSE, Mr. GEJDENSON, Mr. GEKAS, Mr. GORDON, Mr. GENE GREEN of Texas, Mr. GREENWOOD, Mr. GUNDERSON, Mr. HALL of Ohio, Mr. HANCOCK, Mr. HASTERT, Mr. HEFLEY, Mr. HEFNER, Mr. JACOBS, Mrs. KELLY, Mr. KIM, Mr. KING, Mr. KLECZKA, Mr. KLUG, Mr. KNOLLENBERG, Mr. LAHOOD, Mr. LANTOS, Mr. LARGENT, Mr. LEACH, Mr. LEWIS of California, Mr. LIGHTFOOT, Mr. LIPINSKI, Mr. LIVINGSTON, Ms. LOFGREN, Mrs. LOWEY, Mr. MARTINEZ, Mr. MCCOLLUM, Mr. MCHALE, Mr. MCHUGH, Mr. MCKEON, Mr. MEEHAN, Mrs. MEYERS of Kansas, Mr. MILLER of Florida, Ms. MOLINARI, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. MORAN, Mrs. MORELLA, Mr. MURTHA, Mr. NEY, Mr. OLVER, Mr. OWENS, Mr. PACKARD, Mr. PARKER, Mr. PAXON, Mr. PAYNE of Virginia, Mr. PETRI, Ms. PRYCE, Mr. QUINN, Mr. RADANOVICH, Mr. RIGGS, Mr. ROYCE, Mr. SANDERS, Mr. SANFORD, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHIFF, Mr. SCHUMER, Mrs. SEASTRAND, Mr. SENSENBRENNER, Mr. SERRANO, Mr. SHAYS, Mr. SKEEN, Ms. SLAUGHTER, Mr. SMITH of Texas, Mr. SOLOMON, Mr. STARK, Mr. STEARNS, Mr. STUMP, Mr. THOMPSON, Mr. TORKILDSEN, Mr. UNDERWOOD, Mr. UPTON, Mr. VISCLOSKY, Mrs. VUCANOVICH, Mrs. WALDHOLTZ, Mr. WALSH, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. WILSON, Mr. WOLF, Mr. ZELIFF, and Mr. ZIMMER) introduced the following bill; which was referred to the Committee on the Judiciary and, in addition, to the Committee on Ways and Means, for a period to be

subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Volunteer Protection
 5 Act of 1995”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds and declares
 8 that—

9 (1) the willingness of volunteers to offer their
 10 services is deterred by potential personal liability for
 11 simple mistakes made in the course of volunteer
 12 service;

13 (2) as a result, many nonprofit public and pri-
 14 vate organizations and governmental entities, includ-
 15 ing voluntary associations, social service agencies,
 16 educational institutions, local governments, founda-
 17 tions, and other civic programs, have been adversely

1 affected through the withdrawal of volunteers from
2 boards of directors and service in other capacities;

3 (3) the contribution of these programs to their
4 communities is thereby diminished, resulting in
5 fewer and higher cost programs than would be ob-
6 tainable if volunteers were participating; and

7 (4) because Federal funds are expended on use-
8 ful and cost-effective social service programs which
9 depend heavily on volunteer participation, protection
10 of voluntarism through clarification and limitation of
11 the personal liability risks assumed by the volunteer
12 in connection with such participation is an appro-
13 priate subject for Federal encouragement of State
14 reform.

15 (b) PURPOSE.—It is the purpose of this Act to pro-
16 mote the interests of social service program beneficiaries
17 and taxpayers and to sustain the availability of programs
18 and nonprofit organizations and governmental entities
19 which depend on volunteer contributions by encouraging
20 reasonable reform of State laws to provide protection from
21 personal financial liability to volunteers serving with non-
22 profit organizations and governmental entities for actions
23 undertaken in good faith on behalf of such organizations.

1 **SEC. 3. NO PREEMPTION OF STATE TORT LAW.**

2 Nothing in this Act shall be construed to preempt the
3 laws of any State governing tort liability actions.

4 **SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.**

5 (a) LIABILITY PROTECTION FOR VOLUNTEERS.—Ex-
6 cept as provided in subsections (b) and (d), any volunteer
7 of a nonprofit organization or governmental entity shall
8 incur no personal financial liability for any tort claim al-
9 leging damage or injury from any act or omission of the
10 volunteer on behalf of the organization or entity if—

11 (1) such volunteer was acting in good faith and
12 within the scope of such volunteer's official functions
13 and duties with the organization or entity; and

14 (2) such damage or injury was not caused by
15 willful and wanton misconduct by such volunteer.

16 (b) CONCERNING RESPONSIBILITY OF VOLUNTEERS
17 WITH RESPECT TO ORGANIZATIONS.—Nothing in this
18 section shall be construed to affect any civil action brought
19 by any nonprofit organization or any governmental entity
20 against any volunteer of such organization or entity.

21 (c) NO EFFECT ON LIABILITY OF ORGANIZATION.—
22 Nothing in this section shall be construed to affect the
23 liability of any nonprofit organization or governmental en-
24 tity with respect to injury caused to any person.

25 (d) EXCEPTIONS TO VOLUNTEER LIABILITY PRO-
26 TECTION.—A State may impose one or more of the follow-

1 ing conditions on and exceptions to the granting of liabil-
2 ity protection to any volunteer of an organization or entity
3 required by subsection (a):

4 (1) The organization or entity must adhere to
5 risk management procedures, including mandatory
6 training of volunteers, as defined by the Secretary of
7 Health and Human Services by regulation.

8 (2) The organization or entity shall be liable for
9 the acts or omissions of its volunteers to the same
10 extent as an employer is liable, under the laws of
11 that State, for the acts or omissions of its em-
12 ployees.

13 (3) The protection from liability does not
14 apply—

15 (A) if the volunteer was operating a motor
16 vehicle, vessel, aircraft, or other vehicle for
17 which the State involved requires the operator
18 or vehicle owner to maintain insurance;

19 (B) in the case of a suit brought by an ap-
20 propriate officer of a State or local government
21 to enforce a Federal, State, or local law; and

22 (C) to the extent the claim would be cov-
23 ered under any insurance policy.

24 (4) The protection from liability shall apply
25 only if the organization or entity provides a finan-

1 cially secure source of recovery for individuals who
2 suffer injury as a result of actions taken by a volun-
3 teer on behalf of the organization or entity. A finan-
4 cially secure source of recovery may be an insurance
5 policy within specified limits, comparable coverage
6 from a risk pooling mechanism, equivalent assets, or
7 alternative arrangements that satisfy the State that
8 the entity will be able to pay for losses up to a speci-
9 fied amount. Separate standards for different types
10 of liability exposure may be specified.

11 **SEC. 5. CERTIFICATION REQUIREMENT AND ADJUSTMENT**
12 **OF SOCIAL SERVICES BLOCK GRANT ALLOT-**
13 **MENTS.**

14 (a) CERTIFICATION AND BLOCK GRANT ALLOT-
15 MENTS.—In the case of any State which certifies, not later
16 than 2 years after the date of the enactment of this Act,
17 to the Secretary of Health and Human Services that it
18 has enacted, adopted, or otherwise has in effect State law
19 which substantially complies with section 4(a), the Sec-
20 retary shall increase by 1 percent the fiscal year allotment
21 which would otherwise be made to such State to carry out
22 the Social Services Block Grant Program under title XX
23 of the Social Security Act.

24 (b) CONTINUATION OF INCREASE.—Any increase
25 made under subsection (a) in an allotment to a State shall

1 remain in effect only if the State makes a certification
2 to the Secretary of Health and Human Services, not later
3 than the end of each 1-year period occurring successively
4 after the end of the 2-year period described in subsection
5 (a), that it has in effect State law which substantially com-
6 plies with section 4(a).

7 **SEC. 6. DEFINITIONS.**

8 For purposes of this Act—

9 (1) the term “volunteer” means an individual
10 performing services for a nonprofit organization or
11 a governmental entity who does not receive—

12 (A) compensation (including reimburse-
13 ment or allowance for expenses), or

14 (B) any other thing of value in lieu of com-
15 pensation,

16 in excess of \$300, and such term includes a volun-
17 teer serving as a director, officer, trustee, or direct
18 service volunteer;

19 (2) the term “nonprofit organization” means
20 any organization described in section 501(c) of the
21 Internal Revenue Code of 1986 and exempt from tax
22 under section 501(a) of such Code;

23 (3) the term “damage or injury” includes phys-
24 ical, nonphysical, economic, and noneconomic dam-
25 age; and

1 (4) the term “State” means each of the several
2 States, the District of Columbia, the Commonwealth
3 of Puerto Rico, the Virgin Islands, Guam, American
4 Samoa, the Northern Mariana Islands, any other
5 territory or possession of the United States, or any
6 political subdivision of any such State, territory, or
7 possession.

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